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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,
OTTOMOTTO LLC; OTTO TRUCKING LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**DECLARATION OF HONG-AN VU IN
SUPPORT OF DEFENDANT OTTO
TRUCKING LLC'S MOTION TO COMPEL
DISCOVERY FROM WAYMO
REGARDING ITS FORENSIC
INVESTIGATION**

Judge: The Honorable Jacqueline Scott Corley
Trial Date: October 10, 2017

1 I, Hong-An Vu, declare as follows:

2 1. I am an associate at the law firm of Goodwin Procter representing Otto Trucking LLC in
3 this matter. I am a member in good standing of the Bar of the State of California. I make this
4 declaration in support of Otto Trucking's Motion to Compel Discovery From Waymo Regarding its
5 Forensic Investigation. I make this declaration based on personal knowledge and if called as a witness, I
6 could and would competently testify to the matters set forth herein.

7 2. On August 9, 2017, I was present on a meet and confer between the parties with the
8 Special Master during which counsel for Waymo LLC represented that it was intentionally waiving
9 work-product protection over Waymo's forensic investigation regarding Messrs. Levandowski,
10 Kshirsagar, and Raduta.

11 3. Attached as **Exhibit 1** is true and correct copy of excerpts of the certified deposition
12 transcript of Gary Brown, dated March 24, 2017.

13 4. Attached as **Exhibit 2** is true and correct copy of excerpts of the certified 30(b)(6)
14 deposition transcript of Gary Brown, dated August, 2, 2017.

15 5. Attached as **Exhibit 3** is true and correct copy of excerpts of the certified deposition
16 transcript of Gary Brown, dated August, 8, 2017.

17 6. Attached as **Exhibit 4** is true and correct copy of excerpts of the certified deposition
18 transcript of Kristinn Gudjonsson, dated July 28, 2017.

19 7. Attached as **Exhibit 5** is true and correct copy of excerpts of the certified deposition
20 transcript of Chelsea Bailey, dated August, 1, 2017.

21 8. Attached as **Exhibit 6** is a true and correct copy of a Waymo Privilege Log dated March
22 23, 2017.

23 9. Attached as **Exhibit 7** is a true and correct copy of an April 10, 2017 email from
24 Waymo's counsel, James Judah, to Uber's and Ottomotto's counsel, and the Special Master, among
25 others, forwarding a Jeff Nardinelli email which Waymo identified on an August 9, 2017 conferral as
26 setting forth its position on the "scope of waiver."

27 10. Attached as **Exhibit 8** is a true and correct copy of a July 21, 2017 email from Waymo's
28 counsel, Jeff Nardinelli, to Uber's and Ottomotto's counsel, and the Special Master, among others,

1 regarding Waymo productions PROD024 and PROD024A and attaching the privilege log for Waymo
2 PROD024.

3 11. Attached as **Exhibit 9** is a true and correct copy of a Waymo Privilege Log dated July 21,
4 2017.

5 12. Attached as **Exhibit 10** is a true and correct copy of a July 30, 2017 email from Waymo's
6 counsel, Jeff Nardinelli, to Uber's and Ottomotto's counsel, and the Special Master, among others,
7 regarding meeting and conferring regard Waymo's responses to Otto Trucking's Requests for
8 Production, stating, "Waymo waived the privilege with respect to elements of its investigations into Mr.
9 Levandowski as well as Messrs. Raduta and Kshirsagar, and accordingly produced the documents over
10 which it waived privilege."

11 13. Attached as **Exhibit 11** is a true and correct copy of the Machine Forensic Record for
12 Sameer Kshirsagar, in redacted form, produced by Waymo, bearing bates numbers WAYMO-UBER-
13 00029365.C-29378.C. This version of the document was produced by Waymo after Gary Brown was
14 examined during deposition on the unredacted version of this document (WAYMO-UBER-00029365 –
15 29378).

16 14. Attached as **Exhibit 12** is a true and correct copy of the Machine Forensic Record for
17 Anthony Levandowski, produced by Waymo, bearing bates numbers WAYMO-UBER-00029412-
18 29460.

19 15. Attached as **Exhibit 13** is a true and correct copy of an August 8, 2017 email from
20 Waymo's counsel, Jeff Nardinelli, to Uber's and Ottomotto's counsel, and the Special Master, among
21 others, clawing back WAYMO-UBER-00029365, the unredacted version of the Machine Forensic
22 Record for Sameer Kshirsagar.

23 16. Attached as **Exhibit 14** is a true and correct copy of Plaintiff Waymo LLC's List of
24 Issues on Which It Will Present Expert Testimony During Its Case-In-Chief At Trial, dated August 3,
25 2017.

26 17. I have reviewed twenty-four privilege logs served by Waymo in this case. I identified the
27 entries on the privilege logs which appear to relate to Waymo's forensic investigation based on the
28 sender and recipients (e.g., Kristinn Gudjonsson, Gary Brown, Chelsea Bailey, Tom Gorman, other

1 attorneys at Keker & Van Nest) and/or subject matter description (e.g., “internal investigation,” or “legal
2 dispute”). On all of the entries I identified except for two, Waymo claimed attorney-client privilege and
3 attorney-work product protection. The two entries which Waymo claimed as attorney work product
4 only are on Waymo’s April 12, 2017 privilege log (entries ##19, 20) and “reflect notes taken by Mr.
5 [Gary] Brown reflecting an investigation performed at the instruction of counsel.”

6 I declare under penalty of perjury under the laws of the United States that the foregoing is true
7 and correct. Executed this 11th day of August, 2017, in Los Angeles, CA.

8
9 /s/ Hong-An Vu

10 HONG-AN VU
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ATTORNEY ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I, Neel Chatterjee, hereby attest that concurrence in the filing of this document has been obtained from any signatories indicated by a “conformed” signatures (/s/) within this document.

Dated: August 11, 2017

/s/ Neel Chatterjee
Neel Chatterjee